

BOARD OF APPEALS CASE NO. 4948

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BEFORE THE

APPLICANT: Sybil Dukehart and  
Victoria Miller

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ZONING HEARING EXAMINER

REQUEST: Variance to allow an existing  
6 foot fence within the front yard setback;  
4208 & 4214 Madonna Road, Jarrettsville

\*

OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 8/11/99 & 8/18/99

HEARING DATE: September 29, 1999

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Record: 8/13/99 & 8/20/99

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicants, Sybil Dukehart and Victoria Miller, appeared before the Hearing Examiner requesting a variance to Section 267-24(B)(1) of the Harford County Code, to allow an existing fence higher than 4 feet in the front yard in the Agricultural District.

The subject parcel is owned by Sybil K. Dukehart and Victoria B. Miller. This matter involves two separate parcels, the first parcel being known as 4208 Madonna Road and is identified as Parcel No. 23, in Grid 4-E, on Tax Map 15. The second parcel is located at 4214 Madonna Road and is on Tax Map 23, in Grid 1-E, and is identified as Parcel No. 22. One parcel contains 203 acres, m/l, and the other parcel contains 10 acres, m/l.

Mr. Ronald Weber appeared and testified that he resides at 4208 Madonna Road. The witness said that there previously was a 4 foot fence which was old and not very attractive. The witness said that he has talked to several neighbors who do not feel that the 6 foot fence impacts their property. Mr. Weber said that the house in which he resides is close to the road and the fence provides privacy.

Ms. Victoria Miller appeared and testified that she is the owner of the subject parcel and that the fence was installed in order to provide privacy because the existing dwelling is close to Madonna Road, and to prevent trash from being discarded on the property. The witness went on to testify that the fence is also used as a secondary barrier for livestock which is kept on the parcel. Ms. Miller said that she has not received complaints about the location or the height of the fence since it was installed.

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Mr. Anthony S. McClune, Manager, Division of Land Use Management for the Department of Planning & Zoning, appeared and testified that the Staff has reviewed the Applicants' request. Mr. McClune said that the subject parcel has unique characteristics and that the dwelling on the subject parcel dates back to the 1800's and is close to the road. Mr. McClune said that since the house is close to the road and the topography in front of the house falls from the road to the house, noise and headlights from passing vehicles can impact the occupants of the dwelling. Mr. McClune said that the Staff has determined that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

### **CONCLUSION:**

The Applicants are requesting a variance to Section 267-24(B)(1) of the Harford County Code, to allow an existing fence higher than 4 feet in the front yard. The Applicant is proposing a 6 foot fence.

Section 267-24(B), provides:

Fences and walls. Fences and walls may be located in required yards in accordance with the following:

- (1) Front yards. For single-family detached units, walls and fences shall not exceed four feet in height above ground elevation. Where fences and walls are an integral part of the unit design and are applied in a consistent and coordinated pattern throughout the project, fences and walls may be constructed to a maximum of six feet above ground elevation.

The uncontradicted testimony of the occupant of the property, the property owner and Mr. McClune was that the subject parcel is unique due to topographic conditions and the minimal setback of the existing dwelling on subject property which dates to the 1800's. No evidence was introduced that approval of the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code. To the contrary, all of the witnesses testified they did not feel that approval of the variance to allow the existing 6 foot fence to remain in its present location would adversely impact adjacent properties.

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It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated in the testimony. Further, it is the finding of the Hearing Examiner that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance be approved, subject to the condition that the Applicants obtain all necessary permits and inspections for the fence.

Date OCTOBER 18, 1999

  
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L. A. Hinderhofer  
Zoning Hearing Examiner